

Comments and Responses on ARC 6676B
Medicaid Home- and Community-Based Habilitation and Waiver Supported Employment
Received April 17, 2008

The following persons and organizations provided written or oral comments, which are included in the summary below:

Jim Aberg, services director, Opportunity Village, Clear Lake
Sherry Becker, executive director, NIVC Services, Mason City
Larry Boeve, director of employment services, Hope Haven, Rock Valley
Jennifer Bowers, creative Community Options, Ankeny
Jay Bruns, program director, Link Associates, Des Moines
Shelly Chandler, Iowa Association of Community Providers
Sherri Clark, Nishna Productions
Marcy Davis, Creative Community Options, Ankeny
Brenda Doppenberg, vocational services manager, Hope Haven, Rock Valley
Mickey Edwards, regional director, Christian Opportunity Center, Pella
Kristine Karminski, case management. coordinator, Abbe Center for Community Mental Health
Marlyn McKeen, president, Goodwill Industries of Central Iowa, Des Moines
Chris Peterson, Systems Unlimited, Iowa City
Jean Rommes, Innovative Industries, Creston
Pat Steele, vice president of vocational services, Mainstream Living, Des Moines
Audrey Tobin, vocational program manager, Christian Opportunity Center, Pella
Maria Walker, program planner, Polk County Health Services, Des Moines
John Winkelman, executive director, Howard Center, Sac City
Scott Witte, director of client services, Hope Haven, Rock Valley

Criteria for Activities to Obtain a Job

COMMENT: States services to a member for whom competitive employment is reasonable expected within less than one year. Due to past interpretations from employees at the State level, interpretations of competitive employment could be subject to further concerns. For instance, if job placement attainment occurs and supports to maintain that employment continue past one year, it could be viewed by some that funding then stops. While a definition for competitive employment is somewhat addressed in 78.41(7), it may still risk problems with interpretation. (Bruns)

COMMENT: I am concerned about the stipulation that services will be limited to people who can be “reasonably expected to obtain competitive employment within less than one year.” First the term “competitive employment” needs to be clarified. It seems to conflict with description provided of supported employment services in the rules where it states “provided to individuals for whom competitive employment at or above minimum wage is unlikely and who, because of their disability, need intense and ongoing support to perform in a work setting.” In the current rules, the phrase “competitive paid employment” is used. Please keep the same terminology.

Supported employment is not competitive employment. By changing this terminology, you could rule out persons we have served and currently serve in supported employment because they would not meet the criteria for competitive employment. I see “competitive employment” as earning at least minimum wage and not requiring supports. We serve several clients under waiver services who need ongoing supports and will never be able to work without them. Clearer language is needed here. (Doppenberg, Boeve, Witte)

COMMENT: The proposed rules state "services are available only to members who can reasonably be expected to obtain competitive employment within one year". How do you assess and determine this? There are so many factors that can impact this. Those include, but are not necessarily limited to mental health issues, the impact of significant others in a person's life, physical health issues, consumer choice, job availability, etc. Maybe this is a statement that should be excluded? (Clark, similar comments from Peterson)

COMMENT: Any limitations on length of time to reach employment should be set forth by the support team to best meet the client's needs. Automatically limiting it to one year does not take into consideration circumstances such as trying to job develop a rural area where job opportunities and resources for transportation are limited. (Doppenberg, Boeve, Witte)

COMMENT: If employment is not obtained within one year do activities to obtain a job need to be discontinued? (Karminski)

RESPONSE: Competitive employment continues to be described in 441 Iowa Administrative Code Chapter 78 as follows:

78.41(7) *Supported employment services.* Supported employment services are individualized services associated with obtaining and maintaining competitive paid employment in the least restrictive environment possible, provided to individuals for whom competitive employment at or above minimum wage is unlikely and who, because of their disability, need intense and ongoing support to perform in a work setting. Individual placements are the preferred service model.

78.41(7)“c”(3) The majority of coworkers at any employment site with more than two employees where consumers seek, obtain, or maintain employment must be persons without disabilities. In the performance of job duties at any site where consumers seek, obtain, or maintain employment, the consumer must have daily contact with other employees or members of the general public who do not have disabilities, unless the absence of daily contact with other employees or the general public is typical for the job as performed by persons without disabilities.

The intent of the rule is to target members who are interested, identified by the interdisciplinary team and where the “reasonable” expectation is that competitive employment can be obtained within one year. It is essential that “activities to obtain a job” be utilized for members who are reasonably expected to obtain competitive employment, as this service is not to be utilized for long-term funding of job development.

The assessment is individualized so the outcome of this service is job placement. The service is not limited to one year but rather a unit of service and the outcome is competitive employment for 30 days or longer.

If the member has not achieved employment within the specified timeframe, the interdisciplinary team needs to identify whether to continue to look for employment. Ongoing supported employment job coaching or enclave services are not time-limited.

Scope of Activities to Obtain a Job

COMMENT: In the previous rules, "activities to obtain a job" included work site assessment. This was great, because it gave both potential employees and potential employers an opportunity to see if the job had the potential to be a good job match, which then promotes the possibility of a long-term positive employment outcome. It appears in the new rules, that work site assessment falls in the category of "enhanced job search activities" and can occur after job development services have been provided for a minimum of 30 days or with assisting the member in changing jobs due to lay-off, termination, or personal choice.

This does not make sense. Put the ability to do community work site assessments back into "activities to obtain a job". Community work site assessments can open employment doors for people when the employer can see pre-hire that the person being assessed can actually do the job they are seeking. (Clark)

COMMENT: The Activities to obtain a job no longer includes several components that have been useful to help individuals in employment planning. I would like to see these left in with the option to use them under an hourly code.

1. Initial Vocational and educational assessment to develop interventions with the consumer or employer that affect work.
2. On-site vocational assessment prior to employment.

Activities like job shadowing, job exploration, and job tryouts are all useful tools in employment planning. I would like to see these added back in to the rules. (Doppenberg, Boeve, Witte)

RESPONSE: Work site assessment is identified in the service "employer development services. Specifically listed are job analysis for a specific job, development of a customized training plan identifying the job-specific skill, reasonable accommodations, disability awareness training. All of these activities would typically take place within the place of potential employment.

Job shadowing, job exploration and job tryouts can be done through "job development services." Specifically listed is job retention training and customized job development specific to the consumer. These activities may take place within a potential job site.

Supported Employment Readiness Analysis

COMMENT: The process for the team to complete the Supported Employment Readiness Analysis will contribute to unneeded delays to access services. When employers have openings that we know match the interests of the "members", waiting for weeks for the Team to complete this step means opportunities are going to be lost as well as contributing to more costs (Bruns)

COMMENT: Iowa Vocational Rehabilitation Services have developed a “readiness assessment” form that providers will be required to complete. Using an “assessment” form conflicts with the basic premise of supported employment of Place, then Train. I believe the references to Iowa Vocational Rehabilitation Services should be removed from the rules. It has and will continue to create confusion to providers and consumers. Developing partnerships with IVRS needs to remain a separate issue. (Doppenberg, Boeve, Witte)

COMMENT: The rules state that the interdisciplinary team is to fill out the form that Iowa vocational rehabilitation services uses. Because there are other potential options for funding the Employer Development piece and Iowa Vocational Rehabilitation Services (IVRS) may not be involved, the interdisciplinary team would not have access to the form that this rule requires. Adding language that allows for “appropriate alternative form if IVRS will not be part of the Interdisciplinary team” eliminates this barrier. (Walker)

COMMENT: As the Department wrote, *"Activities to obtain employment have a prerequisite of completion of the form that IVRS uses to identify the supported employment services,, appropriate to meet a person's employment needs. This requirement is. intended to facilitate coordination with IVRS and to assist in using funding sources appropriately. "*

This statement is troubling for a number of reasons. Why are community organizations required to use the IVRS form to identify supported employment services appropriate to meet a person's employment needs? Most of the community organizations have been providing supported employment services for years, these services have been accredited by national accrediting bodies, and hundreds of Iowans with disabilities are working today as a result of job placement services.

It seems unlikely to us that the Department has much experience or knowledge of job placement services and what forms should be used. The Department's efforts would be better spent on finding ways to expand job placement services in Iowa rather than dictating to providers what forms need to be used. (Steele)

RESPONSE: The interdisciplinary team must utilize the Iowa Vocational Rehabilitation services form that helps the team to identify:

- The interest and motivation of the individual to want a job;
- Past work history (paid and unpaid);
- The number of hours identified to work;
- Acceptance of supervision;
- Productivity;
- Issues that need assistance

- Support of guardian or family;
- Supports and barriers to employment;
- Responsibilities for the team and member.

The form was developed through a workgroup that included IVRS, providers, and central point of coordination administrators to assist in defining the goals for the member.

The form does not need to be approved through IVRS when accessing Medicaid-supported employment services. It is a tool to be utilized by the team so the expectations of this service are clear for the member, the case manager, providers, and families. It is essential that the resources provided for this service be utilized to achieve the outcome of employment.

Enhanced Job Search Activities

COMMENT: To avoid differing interpretations, precise guidelines of what needs to be documented, what level of effort (number of hours?) need to occur after 30 days of unpaid job development for this service to begin. While it references yet again another Team meeting (unpaid time) to determine this, this subjectivity will lead to further problems and potential abuses. If a definition is provided, many agencies employ indirect marketing efforts with employers that contribute to successful opportunities for "members". These hours of time and cost cannot be directly identified back to "members" in Job Development. (Bruns)

COMMENT: The enhanced job search activities component will be very useful and will provide an easier way to access placement services again if needed. (Doppenberg, Boeve, Witte)

COMMENT: Enhanced job search activities: It appears that this service offers additional funding for job search related activities for those not placed after 30 days. It is unclear whether or not these services can be utilized only if it is member contact driven. Please add clarification in the rules for this. Additionally, it is stated that this can be used for members changing jobs due to lay-off, termination, or personal choice. It is unclear why providers wouldn't access the Job development services and employer development components of this service? Please provide clarification. (Walker)

RESPONSE: The provider is paid the fee of \$900 once job development activities are authorized in the service plan. The provider will have the responsibility to determine, based on their costs, the amount of resources (staff time, etc) towards working with the consumer.

Once the funding is depleted, the interdisciplinary team will need to approve enhanced job search activities as an appropriate service. The team may meet face to face or may determine the appropriateness of this service based on information obtained by the provider via phone conference, e-mails, or any other method used by the team to make changes in the service plan.

The activities to be reimbursed as job search activities include the activities that are described in job development but are focused on specific job searching. Contacts with providers to search leads or provide supports during interviews are part of the job

development and enhanced job search activities. Employer development services are designed to focus on employers in hiring and retaining members in their workforce.

If a member is employed for 30 or more days, the interdisciplinary team would need to review which service, job development or enhanced job search activities, would be appropriate. The situation of the member would dictate which services would best be used.

Job Development & Employer Development

COMMENT: I object to the proposed wording in Comment 1. “Job development services. Job development services are directed toward obtaining competitive employment. A unit of service is a job placement that the member holds for 30 consecutive calendar days or more” As the rules state we are dealing with **Activities to obtain a job**, not maintain a job, therefore a realistic unit would be “a job placement” without any time frame on holding the placement. (Edwards, Tobin)

RESPONSE: The outcome of the service is to obtain a job where the person is successful or is able to hold the job for a period of time, which is currently defined as 30 days. This same definition is used by IVRS. IVRS, providers, CPCs and IME will be meeting on a quarterly basis to continue to review supported employment services and work through implementation issues and barriers.

COMMENT: The rules allow for two units of job development services during a 12-month period. Is this a calendar year, 12 months from date first unit of service begins, or placement-to-placement? Please add language that clarifies this. (Walker)

RESPONSE: The language states a 12-month period. The 12 months would be starting on the service begin date authorized in the service plan.

COMMENT: Giving the interpretations of documentation requirements the State and Providers have struggled with, further detail should be provided on what precisely is expected and needed for documentation in [job employment and employer development]. (Bruns)

RESPONSE: The expectations for documentation are the same as required for any other Medicaid service. Refer to 441 Iowa Administrative Code Chapter 79 for details on documentation and program specific requirements.

COMMENT: I am concerned about the limits on when these components of “Activities to Obtain a job” can be used. The Employer Development piece can only be used in cases in which the person will be working ten hours or less.

Providers will have to access Employer Development through Iowa Vocational Rehabilitation only if they approve an exception for the person to work 10 to 20 hours a week and if Iowa Vocational Rehabilitation Services determines people eligible for their services. In the past couple of years, Iowa Vocational Rehabilitation Services has determined people who can access waiver services are not eligible for their services. IVRS served over 400 clients in supported employment three years ago. Currently they are only serving about 180 clients.

Iowa Vocational Rehabilitation Services have historically not determined people we serve in waiver-supported employment as eligible for services, even before the agreement was made to not serve waiver eligible clients. Providers are very skeptical about this changing to enable us to serve clients in supported employment with adequate funding. (Doppenberg, Boeve, Witte)

RESPONSE: Federal regulations at 42 CFR 440.180(c)(3)(ii) state that “vocational rehabilitation services that are otherwise available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973” are **not** included under Medicaid home- and community-based services. Therefore, to utilize funding sources as defined under federal regulations it is imperative that IVRS funding and Medicaid HCBS funding work together with the goal of benefiting Iowans in need of these services. To continue to work through issues, implementation issues and barriers, IVRS, providers, CPC’s and IME will be meeting on a quarterly basis to continue to review supported employment services.

IME Approval

COMMENT: ...a third condition to accessing the service is approval of the service by the Iowa Medicaid enterprise medical services unit. It is unclear why this differs from 78.41(7) and 78.43(4) where the member’s case manager approves the service. To keep the service streamlined among the waivers and have equal access to services regardless of identified disability, it would be more efficient and timely to allow the case manager to approve the service. (Walker)

COMMENT: The rules state for the Habilitation Services Job Development that the IME has to approve the service for the individual. Who at IME has any expertise in the employment arena? This needs to be changed so the individual’s interdisciplinary team is given authority to approve this service which is consistent with all the other services. (Davis)

RESPONSE: The Department of Human Services approves all HCBS provided through Medicaid. The interdisciplinary team identifies the needs and supports for the member and assists in the development of the plan. The case manager enters the service plan into the Department’s Individualized Services Information System (ISIS) and works approval process for the whole service plan.

According to guidance we have received from CMS, as well as the proposed federal regulations that govern habilitation, all service plans must be approved by the state Medicaid agency. The interdisciplinary team develops the service plan based on the individual's assessed needs, but IME reviews the service plan and provides final approval. This is how approval for supported employment services has been done since the initiation of the habilitation program, and is not a change from the current policy.

Basis of Reimbursement

COMMENT: Using a fee based schedule instead of retrospectively limited prospective rates (with maximums) is essentially what caused some of the current Supported Employment issues with only a current \$500 reimbursement rate. As with all commodities and services,

inflationary factors and cost are dependent on many variables, and having rules that don't account for that seems counterproductive (Bruns)

COMMENT: For many years the Supported Employment Program has been underfunded. With the current Medicaid payment of \$500/\$500 for an individual placement, the provider receives less than 50% of the actual cost. Our actual costs are over \$2,000 per individual. As Goodwill's referrals are individuals with many barriers to employment, it often takes significant time and resources to get someone a job. Although we are encouraged about the possibility of receiving \$900/\$900 payment under the proposed rules, this new rate will still not cover costs. The payment of \$900 after thirty days of employment for an individual is not acceptable.

To re-state, Goodwill of Central Iowa would like to recommend that the rate for the Supported Employment Program be determined on an actual cost based method. Goodwill wants to place more individuals into jobs in the community but has to be fiscally sound. The current payment method, as well as the proposed rule changes, create barriers to employment for individuals with disabilities and for the agencies trying to enable individuals to be productive members of the community. We ask that you please consider changes that will fully fund Supported Employment and that you have one funding stream to fund the program and one agency to administer the program. (McKeen)

COMMENT: We recommend that Medicaid change the basis for job development and employer development reimbursement from fee schedule to a cost based methodology. This service is on the verge of ending because of inadequate funding. This service has not received a single cost increase since Medicaid added it as a service over 12 years ago. It is absurd to think that this service would not have increased costs like any other service. The way to insure timely and adequate increases and avoid a repeat of jeopardizing the viability of this service is to make it cost based. The states inability or unwillingness to address this issue over the years has already caused two providers to close their supported employment doors. (Walker)

COMMENT: What cost study was done to arrive at the \$900 job development fee? As the Department wrote in its explanation of the reason for the rules change, "Services to assist members in obtaining a job are not widely available due to inadequate reimbursement." Given this concern, one would assume that the Department would take the necessary steps to determine what an adequate reimbursement rate should be to ensure that supported employment services are available throughout Iowa. When the Department set the original rate for "activities to get a job" at \$500 back in 1996, it used no formula to set that reimbursement rate. We strongly urge the department to use actual costs in determining the rate for job placement services. (Steele)

COMMENT: It appears that the proposed rule changes for supported employment will be confusing and conflicting for providers, partners, and persons served. I don't believe the rules needed to be rewritten and recreated. All providers really want is an increase in rates that will cover costs to provide supported employment and provide a service that persons served really want, more community integration through employment. State wide cost studies of job placement have shown costs to average between \$1800 and \$2200 per job placement. The current rate for hourly job coaching also is too low to cover actual costs when considering staff time and traveling in rural communities such as ours. (Doppenberg, Boeve, Witte)

RESPONSE: The member has the potential of accessing \$2700 in job development activities through funding from IVRS and HCBS waivers per job placement. \$900 to be paid for job development with the consumer from HCBS, \$900 to be paid for employer development either from IVRS or HCBS and if necessary up to \$900 to be paid for enhanced job development.

IVRS conducted a provider survey to determine the amount to be paid through their funding. The maximum amount was based on the responses received by providers.

Involvement of Iowa Vocational Rehabilitation Services

COMMENT: ...the proposed rules will add another layer to the approval process with 2 entities involved in approval of payment. We believe it would be more efficient to have only one entity provide the approvals. The new rule changes that involve IVRS in the second part of the approval process seem to add a cumbersome layer to the process.

In addition, while we support IVRS in other service areas, in this instance IVRS is a competitor to Goodwill as their staff perform the same job placement function. So it would seem a conflict of interest is being created. IVRS referrals for Supported Employment on a statewide basis have decreased 59% from 2005 to 2007. Using a single funding source would be more efficient and effective. (McKeen)

COMMENT: The split reimbursement fee between DHS and Iowa Vocational Rehabilitation Services will slow the process of seeking community employment down considerably as Case Managers and IVRS Counselors maneuver back and forth having the individuals seeking employment complete numerous applications and wait long periods of time for approval of those applications. Individuals seeking these services will have to understand this. Secondly, this is not a customer-friendly process for members, because it is very confusing for people seeking services and trying to maneuver this process. (Clark)

COMMENT: ... While these rules don't (and shouldn't) make reference to VR funding, it is well known that the funding for these services do not operate separately from the MR Waiver and they do have subsequent impacts of agencies. With that the following comments are submitted:

When the VR process to obtain any funding (instead of Waiver as the "first Payer") have been reviewed by business leaders and employers, it can only be described as "dysfunctional" the way the State of Iowa is treating the services in this area. Supported Employment Services do not need to be any more complicated with forms, delays, and hoops to jump through to receive payment for services. These bureaucratic measures and disputes over funding, only drive up costs for providers and negatively impacts people with disabilities who simply need help finding employment that could be so simple without the barriers put up by State Agencies.

Additionally, VR requires agencies to be CARF accredited. With the somewhat duplicated expectations being implemented (without Deemed Status) with the Waiver Quality Management, many agencies are evaluating the continuation of CARF accreditation which would further impact these intertwined rules by different agencies (Bruns)

COMMENT: One of the issues that we faced in IBRVS over the years of working with the agency is that they are bent on getting a very specific job for individuals and can be completely inflexible when other opportunities arrive.

Some individuals need that right now to pay rent and to put food on the table. Any job that pays will work and a career job could come later. Sometimes RBRVS remains inflexible on that issue. Postponing placement is completely against the substance abuse and mental health services administrations model of evidence based practices for folks with serious and persistent mental illness. They need employment immediately to facilitate rapid recovery and an entry-level job that addresses their mental health issues is better than deteriorating at home which risks expensive and unnecessary psychiatric hospitalization while someone looks for a career placement. (Bowers)

COMMENT: We ask that Medicaid rewrite the rules to fully fund [employer development]. The fiscal impact summary prepared by the Legislative Services Agency states there would be minimal fiscal impact. Having one funding source for one service is reasonable. Having two only adds to the already burdensome bureaucracy of the disability system and increase the cost of providing the service well beyond the rates identified in these proposed rules.

Requiring members and providers to go through the hoops of two different funding sources, each with their own regulations, requirements, and restrictions adds an additional layer that creates a huge barrier in access to services in a timely manner, adds inefficiencies, and creates an additional disincentive for employers wanting to hire people with disabilities because the service does not meet their needs in a timely manner.

Best practice for supported employment dictates access to the service when the member expresses interest in seeking employment. Adding time to set up meetings with additional people, having to adhere to more restrictive regulations (IVRS regulations), only delays access to the service. It is our experience here in Polk County that it takes three plus months to complete the intake process at IVRS. (Walker)

COMMENT: Please take action immediately and eliminate this dual funding of one job. There is absolutely no reason (not economic impact study) for the state to fund this under Medicaid alone. Splitting the placement payment between two sources has required this one task to fall under two state entities each with their own set of rules, regulations and requirements that in some cases are contradictory.

There is no benefit whatsoever to the people receiving services from this proposed dually funded arrangement. In fact, it will cause difficulty and confusion as well as drive the cost up and cause some employment providers to choose to close their doors for good. The negative impact from this proposal is astounding while the solution is simple and has a very minimal overall cost to DHS.

Solution: No partnership with IVRS regarding placement payment – one service one funding source and it needs to be DHS. One placement payment of \$1,800 paid by DHS (\$900 upon acceptance and \$900 immediately upon placement). Remember this change will have a total impact on Iowa's Medicaid budget of approximately \$990,000 out of a \$3 BILLION budget but will have a HUGE positive impact for people with disabilities who need employment. (Davis)

COMMENT: We are strongly opposed to the split-fee arrangement that the Department appears to be proposing through the rules. It makes no sense to have an organization be required to collect half of the fee from Medicaid and the other half from IVRS. Finding a job is finding a job - it is one job and one entity needs to be accountable for providing the service and one entity needs to be accountable for paying for it - all of it.

It is not apparent to us as to why a split *fee* arrangement is beneficial to job seekers. Having multiple funders means more meetings; more forms to be completed, resulting in a delay of job placement activities. Such a requirement appears to put the Department in conflict with its own adoption of "Evidence-Based Practice for Supported Employment. One of the core principles of supported employment is "rapid job search." Three of the principles of rapid job search are:

- ◆ Seeking work immediately takes advantage of the consumer's current: motivation. Studies show that fewer people obtain employment when the job search is delayed by prevocational preparations and requirements.
- ◆ Beginning the search process early demonstrates to consumers that their desire to work is taken seriously, and conveys optimism that there are multiple opportunities available in the community for the consumer to achieve their vocational goals.

The rules as proposed are in conflict with several tenets of Evidence-Based Practices for Supported Employment. For this and the other reasons that we have listed, we urge the Department to fully fund job placement service under Medicaid and drop the idea of shared funding for supported employment between Medicaid and IVRS.

As we suggested in our Exception to Policy request one year ago, we favor a two payment system: \$1000 when the person is accepted for job placement and another \$1000 when the person is placed into a job. Such a system provides resources for a provider to carry out job search activities and an incentive to secure the placement. This is a far superior payment system than what is proposed in the rules. (Steele)

COMMENT: The rules propose a solution that is not viable as they propose a partnership of payment for one service between two enormous state entities (DHS and IVRS). Bottom line is this is a viciously terrible idea. Our system is already huge and cumbersome and overwhelming to the folks who rely on us for support just to live and adding a state agency and all the meetings and paperwork that come with that decision will do the following for our folks who need us:

- ◆ Slow the process down by requiring additional intake meetings, planning meetings and application processes
- ◆ Increase the amount of duplicated paperwork already covered by provider and funding sources
- ◆ Significantly increase the cost of the service due to the additional processes, paperwork, meetings and people involved.

Job development is a single job and should be funded by a single entity ... period. No person has two psychiatrists or two physical therapists to perform a single job and it is beyond ludicrous to expect to do this for job placement.

Solution: Single funding source that covers the cost of the service. HCBS can fund it at \$1,800 which is still only 90% of cost. The payments should be \$900 upon acceptance and \$900 immediately upon placement. This change will have a total impact on Iowa's Medicaid budget of approximately \$990,000 out of a \$3 BILLION budget. Although the \$1,800 reimbursement is still below the demonstrated actual cost of \$2,000, it is far more appropriate than the current \$500 reimbursement and it will not include adding a state bureaucracy.

If the individual needs other services (skills training, uniforms etc,) then (**and only then**) will they need to add yet another enormous bureaucracy of paperwork and meetings to their plate of services.

CCO provides services to folks with Mental Retardation who are typically classified by IVRS as "the most difficult to serve". Due to the immense support needs of the folks CCO serves, it is not uncommon for them to only work 10 or 13 hours per week (sometimes less in the beginning) which does not qualify them for IVRS services. Despite this, the system you are proposing requires these folks to go through the entire intake process to get a letter from IVRS that states they will not fund the service. This is just bad business.

IVRS has repeatedly indicated that they will make referrals to Community Rehabilitation Providers (CRP's) yet, I have evidence that this is not the case. I have been in contact with a family that has requested CCO's employment supports and been told by the IVRS counselor "no, because we would have to pay for it". I don't think I need to say any more here.

Another issue we have faced with IVRS over the years of working with them is that they are bent on getting a very specific job for individuals and are completely inflexible when other opportunities arrive. This is terrible practice for the following reasons:

- ◆ Some folks need the job right now to pay rent and put food on the table and any job that pays will work and a 'career' job can come later but IVRS remains inflexible on this issue
- ◆ Postponing placement is completely against the SAMHSA (Substance Abuse & Mental Health Services Administration) model of evidence based practices for folks with serious and persistent mental illness. They need employment immediately to facilitate rapid recovery and an entry level job that addresses their mental health issues is better than deteriorating at home (risking expensive and unnecessary psychiatric hospitalization) while someone looks for a 'career' placement. (Davis)

COMMENT: It seems that the Department through the proposed rules is requiring organizations to have a relationship, agreement, or partnership with Iowa Vocational Rehabilitation Service (IVRS) in order to access Medicaid funding for job placement services.

Why does the Department believe that coordination with IVRS is so crucial to Medicaid-funded job placement services? IVRS has the ability to contract with providers for a variety of services, including job placement, and has established its own rate structure to do so. We see no value in requiring a provider who wants to provide job placement service under Medicaid funding to have a relationship with IVRS. Such a requirement appears to put the Department at cross purposes with the intent of the new rules, which was to ensure that job placement services are available.

Community organizations and IVRS, for a number of reasons, may not choose to have a relationship with one another. However, this should not preclude an organization from

providing Medicaid-funded job placement services. Limiting job placement services to only organizations that have a relationship or funding agreement with IVRS potentially narrows the number of organizations in Iowa providing job placement services.

Equally concerning is the current relationship that IVRS has with community organizations- IVRS has chosen to become a competitor with job placement programs rather than a funder or partner. They are now asking their counselors to do job placement rather than contracting with providers for this service. The result of this change is that the number of referrals that IVRS has made to job placement programs across Iowa has dropped significantly. Thus, there is no assurance under the proposed rules that IVRS would indeed contract with a provider for job placement services. (Steele)

COMMENT: My concern is the amount of time it would take to have people apply for the voc rehab process. For example if they have already identified a job that is available immediately to them, will they have to be required to jump through the hoops of vocational rehabilitation and apply for that service before we are able to access funding for supported employment? (Peterson)

COMMENT: Do consumers need to access Vocational Rehabilitation funding first or be referred to them first before accessing funding for activities to obtain a job? (Karminski)

RESPONSE: The Code of Federal Regulations 42 440.180 (c) (3) (ii) states that service not included for Medicaid Home and Community Based Services includes “Vocational Rehabilitation services that are otherwise available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973.”

Therefore, to utilize funding sources as defined under federal regulations it is imperative that IVRS funding and Medicaid HCBS funding work together with the goal of benefiting Iowan’s in need of these services. To continue to work through issues, implementation issues and barriers, IVRS, providers, CPC’s and IME will be meeting on a quarterly basis to continue to review supported employment services.

Due to the regulation stated above, it is important to document that IVRS funds are not available. IVRS has is able to provide a letter that states what funding is available for the person. Best practice would be to identify what the service needs are for the member, determine which funding source would be available and contact IVRS to receive documentation regarding their funding options.

Payment Schedule

COMMENT: The current rules require all the work to be done up front and the provider does not get paid until after 30 days of employment. This is ridiculous as you can not go anywhere and have a service delivered and then wait 30 days to **earn** the fee. Also, there is simply no guarantee that an individual will do well or that an employer won’t terminate for a valid or invalid reason, or even have to lay off staff.

Solution: Payment is split \$900 upon acceptance and \$900 immediately upon placement. All of the services have already been provided between acceptance and placement, there are no

more job development services after placement. DHS needs to remember that they are paying for **a placement** and once hired that goal is met.

(Davis)

COMMENT: Not providing providers of service any funding up front for their efforts and costs is essentially asking for providers to cash flow something for nothing. We struggle to find any real world businesses that can provide services and delay getting paid for their efforts for a minimum of 30 days. This system also increases the likelihood that "members" who have the greatest potential to gain employment will be accepted for services more readily than others that would require more supports. Those individuals will go unserved and likely receive more costly services because of this funding scenario. (Bruns)

COMMENT: Under the proposed rules the provider organization would not receive any payment until after the person has been placed and remains in the job for 30 days. There is much to criticize regarding the proposed rules, but this payment policy is the most appalling of all. I can think of very few businesses that would agree to such a payment practice. If the Department is intent on killing supported employment in Iowa, this one alone could do it. We can think of no justification for such a payment policy, and **strongly urge** the Department to re-think this idea. (Steele)

COMMENT: If [the person has to be employed for 30 days in order for the provider to be reimbursed]... the provider will have to up front pay the Job Coach for their time and efforts in:

- ◆ (Job Development) to assist the person served with job procurement training, including grooming and hygiene, application, resume development, interviewing skills, follow-up letters, and job search activities; job retention training, including promptness, coworker relations, transportation skills, disability-related supports, job benefits, and an understanding of employee rights and self-advocacy; and customized job development specific to the consumer.
- ◆ (Employer Development) developing relationships with employers and providing leads for individual members when appropriate; job analysis for a specific job; development of a customized training plan identifying job-specific skill requirements, employer expectations, teaching strategies, time frames, and responsibilities; identifying and arranging reasonable accommodations with the employer; providing disability awareness and training to the employer when it is deemed necessary; and providing technical assistance to the employer regarding the training progress as identified on the member's customized training plan.

The provider would encumber expenses for which they would not be paid unless the member holds down the job for 30 days or more.

What these rules are basically doing is asking providers to encumber great risk of not being paid for the services they render to the Medicaid member if the outcome of 30 days of work is not achieved. What this rule may do is lead to providers only being willing to provide job development and employer development to the most capable members who the provider feels stands a good chance at keeping a job for 30 days. This rule as written may result in the unfortunate practice of "cherry picking" and result in the more severely disabled members

losing out on opportunities for community employment because providers are not willing or able to encumber the financial risks.

... we do need to be concerned that the rule is extremely clear in the event of an OIG audit. OIG auditors generally are very narrow in their interpretation of rules. As such, it may be in Iowa's best interest to clarify this rule more clearly to ensure no misinterpretation of the rule. (Aberg)

COMMENT: When a service provider provides this service currently they received the \$500 at the time of referral to the service. This gave the provider funds to staff the service to assist an individual in the area of job development. Providers have cease providing this services due to the insufficient funds, especially due to increased cost and consumer referrals that are for individuals with lower skill levels, higher needs and more difficult to place in a timely manner.

The proposal of increasing this amount to \$900 was presented to encourage providers to start providing the job development service again. If the proposed amount is not paid until the individual is employed for a minimum of 30 days, most providers will be unable to provide the service. There will be no funds to cover the cost or staff needed to provide the job development services to the individual. ...Our opinion is that most providers will not provide the service of job development if funding is not available until placement for 30 days is acquired. Job development services are activities to obtain a job. It is a service provider prior to employer development and job coaching. Job development should be paid at the beginning of providing the service. (Winkleman)

COMMENT: ...the 30 day employment requirement prior to reimbursement in the proposed rules is unreasonable. In order to provide job development and activities to obtain a job, providers must be reimbursed for those services at their initiation. (Becker)

COMMENT: Providers should be paid upon referral. Maintaining a job for 30 days in order to get paid for job development should not be part of the rules. Developing and maintaining is not what the word "development" means. (Clark)

COMMENT: The requirement that a unit of service is after the member holds the job for 30 days is unacceptable for providers. Providers will not be able to financially carry the cost of the related activities provided on behalf of the member when this service takes anywhere from a couple of months to one year to obtain placement, particularly for those members with many barriers. In addition, providers of this service in Polk County already operate at a significant loss because of many years of inadequate reimbursement for this service. Reimbursement needs to be made at time of acceptance. (Walker)

RESPONSE: Job development services are to be paid once the service is authorized in the service plan. The rules will be changed to clarify the timing of the payment.

For employer development, payment is to be made once the member holds the job for 30 days or more. The service is paid once the outcome, employment, is achieved. It is expected that the majority of members will be accessing the funding for this component through IVRS. In an effort to provide a more cohesive supported employment system, HCBS is using the same service definition and payment mechanisms as IVRS. IVRS,

providers, CPC's and IME will be meeting on a quarterly basis to continue to review supported employment services.

COMMENT: When we look for a job, we assess the individual interests and skills and then we begin to scour the area for a job and an employer that matches. In that process we are cultivating relationships with employers on behalf of anyone with a disability. If you would like to pay for this cultivation, we should be paid for every single employer who we talk to that wants to hire a person with a disability regardless of whether or not they do hire someone. There are occasions that we connect with employers who want to hire and have positions available but we do not have anyone to fill the position. Obviously this is a ludicrous as the rules you are proposing and is not a feasible option. You simply can not separate job development into two components (consumer development and employer development). (Davis)

Solution: One placement payment of \$1,800 paid by DHS (\$900 upon acceptance and \$900 immediately upon placement). Remember this change will have a total impact on Iowa's Medicaid budget of approximately \$990,000 out of a \$3 BILLION budget but will have a *HUGE positive impact for people with disabilities who need employment.* (Davis)

RESPONSE: The Code of Federal Regulations 42 440.180 (c) (3) (ii) states that service not included for Medicaid Home and Community Based Services includes "Vocational Rehabilitation services that are otherwise available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973."

Therefore, to utilize funding sources as defined under federal regulations it is imperative that IVRS funding and Medicaid HCBS funding work together with the goal of benefiting Iowan's in need of these services. To continue to work through issues, implementation issues and barriers, IVRS, providers, CPCs and IME will be meeting on a quarterly basis to continue to review supported employment services.

General Comments

COMMENT: ...thank you very much for proposing these rule revisions which may help with improving the supported employment opportunities for Iowan's who receive HCBS waiver and HCBS habilitation services. (Aberg)

COMMENT: The new proposed changes for the supported employment services in general are an improvement over what is available currently with this one exception [timing of payment]. (Winkelman)

COMMENT: Iowans with disabilities, their families, advocates, providers and funding sources all embrace the philosophy of integrated, community employment. Adequate resources must be allocated to achieve the desired community-based outcomes. The proposed increases in the reimbursement rate for supported employment job development services under the waiver represents a beginning solution to this critical issue. Iowa faces workforce challenges. People with disabilities represent an untapped workforce resource Iowa cannot afford to ignore. Solving the reimbursement challenges for supported employment is the only way to ensure that Iowans with significant disabilities can realize their aspirations and potential. (Becker)

COMMENT: I think that the effort that has been made was in good faith, but I am not sure it is going to work very well in reality. I think we have a lot of people around the state that are going to be losing some significant services. There are organizations that are going to continue to try to provide services using these rules. We are one of them. I do not know how long we will be able to do that. A lot of that will be how these rules are implemented by the local entities. At this stage of the game, my board of directors is willing to continue to provide supported employment services because they think it is the right thing to do but there is a real issue whether we will be able to continue to do that. (Rommies)

COMMENT: participated in the work group that has been meeting for nearly a year to develop this program or these rules changes. I have definitely heard the concerns that have been expressed today and also in the written comments that DHS has received. I do not think the rules as they are currently written are the “solution” to our problem, but I do think they are a good faith effort by the Department in providing and 80% increase in funding that has been long overdue.

I also am very concerned about the relationship that providers currently have with vocational rehabilitation, however these rules do not impact vocational rehabilitation. They are only the rules that DHS is offering and I think that DHS in good faith with vocational rehabilitation and their stated comments is willing to give it a try and work it out. We must move forward with this. I do think that the willingness by the Department and the stated willingness by vocational rehabilitation to meet at least quarterly and my suggestion would be that we meet monthly for the first six months to see the roll out, I am very concerned about the rationality issues based on some of the vocational rehabilitation counselors, but again these are the DHS rules. (Chandler)

COMMENT: Creative Community Options (CCO) is a Supported Employment Provider in the Polk County area and has provided services in the area for 15 years and I can attest to the fact that our employment services have been under-funded (25% of actual cost) for many years. It has been so many years that if it is not corrected with a viable solution, CCO will be discussing terminating our employment services.

...employment is the most critical service available for folks with disabilities. How do you get to know someone new? Generally by asking what they do. We take pride in our work and our contribution to an organization and society and that work also puts food on the table and pays the rent. Employment has benefits that are too numerous to list in this letter and CCO values the employment of people with disabilities which is exactly why I hope that this issue will be addressed properly.

As an employment provider, if these rules go as noticed I will be approaching my Board of Directors to terminate this service. We work very hard to maintain financial vibrancy and I can no longer justify keeping a service that is funded so far below cost (25%) and I can not agree to such a sloppy agreement for split funding for a single service. I believe that if we close our doors, we will be the third or fourth provider in Polk County to do so. I do hope that you see the writing on the wall, this is bad policy and bad business and that you clean up the mess before too many more individuals we serve are harmed. (Davis)

COMMENT: The rules as proposed are unacceptable to us and our organization will not accept Medicaid-funded supported employment referrals under such a system. In our opinion the new rules will make supported employment services less available than they are now. We urge you

to re-convene the work group that you established last fall to re-draft new rules for supported employment.

Unemployment has such a deleterious effect on the physical and mental well being of individuals. That is why it is often said that the best human services program is a job. We hope that you will give greater priority to employment by developing rules which provide adequate reimbursement and rapid job placement for Iowans with disabilities. (Steele)

COMMENT: As written, these rules will end supported employment in Polk County. This service has been inadequately funded for several years. Two providers in Polk County have ended supported employment because they could no longer afford to provide the service. Easter Seals is one that ended their supported employment service as of early this year because they could no longer afford to wait on the promise of rules being re-written and implemented.

A nationally recognized organization founded on employment as a key service is a sad commentary to what is happening to a vital service here in Iowa; one that embraces the philosophical belief that all people, given the appropriate supports, can and should work in the community. The remaining four providers in Polk County have formally stated that they will not accept the rules as written.

The two primary factors are the rules that prevent payment of service until after placement for 30 days and Medicaid's unwillingness to fully fund this service. As the Central Point of Coordination for Polk County, we support their concerns and are extremely troubled that this vital, community based service will cease to exist for members in our community. Providers in Polk County have worked diligently to align employment services and add additional services to meet the changing nature of the labor market, but without a viable supported employment funding source, community employment services will cease. (Walker)

RESPONSE: Payment for job development services for both HCBS and habilitation are available once authorized in the service plan.

If a member already has a job placement identified, job coaching can start as soon as the service is authorized in the service plan. There is a commitment by IVRS, providers, CPC's and IME to continue to work through issues, implementation issues and barriers, IVRS, providers, CPC's and IME. Meetings will be held on a quarterly basis to continue to review supported employment services.

Individuals are eligible for and entitled to needed Medicaid HCBS services as identified by the interdisciplinary team. The case manager is required to continue to work with enrolled Medicaid providers who are willing to provide job development activities, job coaching, or enclave services that the individual needs and is entitled to.